

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Kmart Corporation

v.

Civil No. 09-cv-00167-JL

R.K. Hooksett, LLC, et al.

**ORDER AFTER PRELIMINARY**  
**PRETRIAL CONFERENCE**

The Preliminary Pretrial Conference was held in chambers on  
**August 25, 2009.**

The Discovery Plan (document no. 9) is approved as  
submitted, with the following changes:

- "DiBenedetto" disclosure deadline: **November 2, 2010**
- Summary judgment deadline: **March 1, 2011**
- Status Conference: **First week in April, 2011**
- Trial: **June, 2011**

The proposed protective order is granted.

Paragraph 13 of the Complaint is amended to correct the  
typographical error in the street address. The answer of  
defendants Merchants Plaza and MRAC are amended to include claims  
that the complaint fails to state claims against them.

The parties agree that New Hampshire law applies in this case.

**Summary Judgment.** The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

**Discovery disputes.** Discovery disputes will be handled by the undersigned judge, rather than the Magistrate Judge, in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The court will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. If counsel prefer filing a traditional motion to compel to the conference call procedure set forth above, such motions should expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted.

**SO ORDERED.**

A handwritten signature in black ink, reading "Joe Laplante", written over a horizontal line.

Joseph N. Laplante  
United States District Judge

Dated: August 25, 2009

cc: Jamie N. Hage, Esq.  
John McCabe, Esq.  
Nicholas Novak, Esq.  
Donna Feeney, Esq.  
Andrew D. Dunn, Esq.  
Anthony M. Campo, Esq.  
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